IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.83 OF 2006
IN
CRI.W.P.NO. 1337 OF 2004

Prakash Bajrang Phadtare ..Applicant

Vs.

Sou.Vimal Prakash
Pahdtare and Ors. ..Respondents

...
Mr.Rahul S.Kate Advocate for Applicant
Mr.Ajit Kanjale Adv. for Respondent Nos.1 to 3
Ms.S.V.Gajare A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 17,2006

P.C.

1. Heard the learned advocate for the Applicant-husband and learned advocate for the Respondent-wife.

2. The Applicant is challenging the order dated 7.2.2006 passed in Criminal Misc.Application No. 17 of 2004 passed by the learned Judicial Magistrate F.C. Court No.I, Karad.

3. Brief facts of this case are that:

. The Respondent is the wife of the Applicant.

They have two children. In M.A.No.279 of 1991, maintenance of Rs.400/- was granted to the wife and maintenance of Rs.250/- per month was granted to each of the two children. Thereafter, the wife preferred application for enhancement being M.A.No. 336 of 1999 and the said application came to be allowed on 11.1.2002 and the wife and two children were awarded Rs.1000/- each. The Petitioner-husband challenged the said order by filing revision application before the Sessions Court. The said order came to be modified by the Sessions Court vide order dated 9.1.2004 and an amount of Rs.1000/- towards maintenance was awarded to the wife and Rs.750/- each was awarded to each of the children. The applicant, being aggrieved by the said order, preferred Cri.Writ Petition No. 1337 of 2004 before this Court. In the said Writ Petition, this Court by order dated 2.5.2005 stayed the operation of the impugned order awarding enhancement of maintenance amount. However, in the said order, it is made clear that the petitioner would deposit the maintenance amount as determined before enhancement. It is an admitted fact that Petitioner is depositing the amount of maintenance which was quantified before it was enhanced.

4. However, the Respondent-wife preferred Application for execution being M.A.No. 17 of 2002 for recovery of the maintenance amount as per order of the Magistrate dated 1.1.2002. The said application came to be allowed by the learned Judicial Magistrate F.C. Karad by order dated 7.2.2006. Being aggrieved by the said order, this application has been preferred.

5. It is seen that this Court by order dated 2.5.2005, has observed as under:

. "It is reported that no progress is made in mediation proceedings.

. Heard. Arguable questions are raised. Rule. Stay of operation of the impugned order in terms of prayer clause (c). Hearing expedited. Liberty to apply.

. It is made clear that the Petitioner shall, however, pay maintenance as per

the amount determined before enhancement till further orders.

. In view of the above order, the applicant was not liable to pay any maintenance over the initial amount awarded by the Court i.e. Rs.400/- to the wife and Rs.250/- each to the two children. The said amount is being deposited by the Petitioner regularly. In this view of the matter, the order of the learned Magistrate dated 7.2.2006 has to be set aside and is accordingly set aside.

. Application is disposed of.

[V.K.TAHILRAMANI,J.]